

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

DOCKET NO. 2003-82

February 27, 2003

PUBLIC UTILITIES COMMISSION
Inquiry into the Status of the
Competitive Market in Northern
Maine

PROTECTIVE ORDER
NO.1 (TEMPORARY)

On February 11, 2003, Maine Public Utilities Commission (the "Commission") Docket 2003-82 and issued a Notice of Inquiry ("NOI") regarding the status of the competitive market in Northern Maine. The Commission invited various parties, including Maine Public Service Company ("MPS"), to provide comments on the NOI. On February 25, 2003 MPS filed a request that certain portions of its written comments be limited to an *in camera* review by the Commission and the Office of Public Advocate, subject to a protective order. MPS takes the position that public disclosure of this information would be injurious to its business interests, since the information requested constitutes confidential information and proprietary information, the disclosure of which would harm MPS. In addition, MPS believes that in light of the threat of terrorism, the disclosure of certain comments relating to its transmission and system-security could provide national security concerns in the event the comments are publicly disclosed.

In order to expedite the provision of the information claimed to be confidential by MPS to the Commission and to the OPA, the Examiner grants MPS's request for a protective order on a temporary basis. The question of whether the terms of the Protective Order should be extended, modified or revoked will be considered prior to the commencement of the technical conference scheduled for March 4, 2003 at 2:00 p.m.

Accordingly, it is

ORDERED

1. That MPS may file certain comments regarding transmission and system-security as "Designated Confidential Information and provide such comments for limited *in camera*, consideration by the Commission. Unless otherwise modified, access to Designated Confidential Information shall be limited as described in paragraph 4 below.
2. That all Designated Confidential Information shall be and remain confidential. Designated Confidential Information shall not be disclosed for any purpose

other than the purposes of the Commission's consideration in this proceeding.

3. That the parties receiving Designated Confidential Information may challenge designation of any documents or other information as confidential by motion to the Commission and upon reasonable prior notice to the parties and an opportunity for hearing.
4. That, unless and until this Order is modified, access to Designated Confidential Information shall be limited to (i) Commission members and members of the Commission Staff and their consultants; (ii) a stenographer or reporter recording any hearing in connection with this proceeding, and (iii) counsel for or any other representative of MPS; and (iv) the Public Advocate, counsel and its consultants.
5. That no copies of Designated Confidential Information furnished by MPS shall be circulated to persons other than those persons who are authorized under paragraph 4 of this Order to obtain Designated Confidential Information. Documents offered in evidence may be copied as necessary for that purpose. Persons authorized under paragraph 4 hereof also may take such notes as may be necessary solely for the purposes of this proceeding. Those notes shall also be treated as Designated Confidential Information.
6. All materials claimed by MPS to be Designated Confidential Information under the terms of this Order shall be clearly marked "confidential" by MPS. In the case of documents, each page of any such document shall be stamped "confidential" in bold lettering in the upper right hand corner of each page including the cover letter. Any document or portion thereof not clearly and conspicuously marked "confidential" in bold lettering shall not be protected under the terms of this Order. Faxed materials should be marked as any other confidential document. With regard to other media, diskettes should be marked "confidential" on the outside and each file on the diskette should be similarly identified. Any person or party subject to the terms of this Order who receives unmarked documents or materials which he/she believes MPS intended to be protected by the terms of this Order, and that would have been protected if marked in accordance with this paragraph, shall make a good faith effort to notify MPS of this fact and to avoid use of such documents or materials in a manner inconsistent with protection of such material under this Order.
7. That the restrictions upon, and obligations accruing to, persons who become subject to this Order shall not apply to any Designated Confidential Information submitted in accordance with paragraph 1 of this Order if the Commission rules, after reasonable notice and hearing, that the Designated Confidential Information was publicly known at the time it was furnished or

has since become publicly known through no fault of the receiving party.

8. That where reference to Designated Confidential Information is required in pleadings, briefs, other legal documents, or arguments, the reference shall be by citation of title or exhibit number only or by some other non-confidential description to the extent possible. In those circumstances, counsel shall make every reasonable effort to preserve the confidentiality of material in the sealed record. If counsel shall include Designated Confidential Information in pleadings, briefs, other legal documents, or arguments, that portion of the documents or that portion of the transcript of the argument containing Designated Confidential Information shall be maintained under seal.
9. That should any appeal of, or other challenge to, the Commission's decision in this proceeding be taken, any portions of the record that have been sealed in accordance with paragraph 7 above shall be forwarded to the courts of this State in accordance with applicable law and procedures, but under seal and so designated in writing for the information of the court.
10. That this Order does not preclude any party from (a) objecting under the Maine Rules of Evidence to the admissibility of any Designated Confidential Information produced by MPS or (b) objecting, on any substantive or procedural ground, to any subsequent data request or other request for information.
11. That MPS may, at its option, provide to each person having access to Designated Confidential Information a copy of this Order and require each person to agree in writing to the terms hereof prior to obtaining access to the Designated Confidential Information.
12. That Designated Confidential Information made available pursuant to this Order and made part of the record in any proceeding before the Commission shall remain in the possession of the Commission, under seal, and subject to the protective requirements of this Order, until this Commission or its authorized presiding officer shall otherwise order.
13. That this Order may be modified on motion of any party or on the Commission's own motion upon reasonable prior notice to the parties and an opportunity for hearing.
14. Copies of Designated Confidential Information and documents, notes and other materials containing or reflecting, directly or indirectly, the Designated Confidential Information, that are in the possession of Commission members, counsel or employees of the Commission may be retained by those persons for the purpose of performing those persons' duties and obligations. If retained, the Designated Confidential Information shall be

subject to this Protective Order or to a protective order issued in another proceeding in which the Designated Confidential Information is used. If a Commission member, counsel or employee of the Commission does not retain the Designated Confidential Information, that person shall destroy it as provided in this paragraph. Within 40 days after the Commission reaches a final decision (i.e., unappealable) in this proceeding, each other party and Commission's independent consultants and experts retained by the Commission to whom Designated Confidential Information has been made available shall destroy all documents, notes and other materials containing or reflecting, directly or indirectly, the Designated Confidential Information. Audio, video or other such magnetically recorded materials shall be electronically erased before disposal. Documents shall be shredded.

Dated at Augusta, Maine, this 27th day of February 2003.

BY ORDER OF THE HEARING EXAMINER

Charles Cohen